

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

WILLIAM J. O'DELL,

Plaintiff

v.

CIVIL ACTION NO. 2:05-cv-0040

COAL COMPANY EMPLOYEES' COMPREHENSIVE
BENEFITS PLAN and BENEFITS COMMITTEE

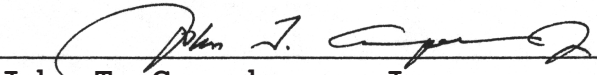
Defendants

O R D E R

For reasons appearing to the court, it is ORDERED that plaintiff show cause before August 8, 2005, why Counts 2, 3, 4, and 5 of his amended complaint, filed April 28, 2005, for common law bad faith, West Virginia Unfair Claims settlement violations, and punitive damages, should not be dismissed, inasmuch as those causes of action appear to be preempted by the provisions of the Employee Retirement Income Security Act, 29 U.S.C. 1001, et seq., under which this action has been brought.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record.

DATED: July 18, 2005



John T. Copenhaver, Jr.
United States District Judge